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FILED & ENTERED

NOV 15 2023

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY deramus DEPUTY CLERK

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

In re:

JEFFREY S. BEIER,

Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

ORDER GRANTING CHAPTER 7 TRUSTEE'S
MOTION FOR ORDER: (1) AUTHORIZING
SALE OF REAL PROPERTY FREE AND
CLEAR OF LIENS AND INTERESTS
PURSUANT TO 11 U.S.C. § 363(f); (2)
APPROVING OVERBID PROCEDURES; (3)
APPROVING BROKER COMPENSATION; (4)
AUTHORIZING DISTRIBUTION OF SALE
PROCEEDS; (5) DETERMINING THAT THE
PROPOSED BUYER AND OVERBIDDER ARE
"GOOD FAITH PURCHASERS" UNDER 11
U.S.C. § 363(m); AND (6) WAIVING 14 DAY
STAY IMPOSED BY FEDERAL RULE OF
BANKRUPTCY PROCEDURE 6004(h)

[10 Tucson, Coto De Caza, California 92679 –
Assessor's Parcel Number 755-241-13]

Hearing:

Date: October 31, 2023

Time: 11:00 a.m.

Place: Via Zoom Teleconference

The Chapter 7 Trustee's, A. Cisneros ("Trustee"), Motion for an Order: (1) Authorizing the
Sale of the Property Commonly Known as 10 Tucson, Coto De Caza, California 92679 [APN: 755-

241-13] Free And Clear of Liens and Interests Pursuant To 11 U.S.C. § 363(f)¹; (2) Approving Overbid Procedures; (3) Approving Broker Compensation; (4) Authorizing Distribution of Sale Proceeds; (5) Determining that the Proposed Buyer and Overbidders are “Good Faith Purchasers” Under § 363(m); and (6) Waiving the 14-day stay of Federal Rule of Bankruptcy Procedure (“FRBP”) 6004(h) (“Motion”) came on for hearing before the Court on October 31, 2023.

Nathan F. Smith of Malcolm ♦ Cisneros, A Law Corporation, appeared on behalf of the Trustee; Anerio V. Altman appearing on behalf of Debtor; and Joseph Delmotte appeared on behalf of The Bank of New York Mellon (“BONY”).

The Court, having read and considered the Motion and all papers and pleadings filed in connection therewith; including the response of BONY, having approved the proposed overbid procedures; having considered argument from the parties, and good cause appearing therefore;

IT IS HEREBY ORDERED that:

1. Trustee’s Motion is **GRANTED**.

2. The property subject to this Order is commonly known as 10 Tucson, Coto De Caza, California 92679 [APN: 755-241-13] (“Property”). A legal description of the Property is attached hereto as Exhibit “A.”

3. The overbid procedures described in the Motion are approved.

4. Trustee is authorized, pursuant to § 363(b), to sell the Property to Lu Li (“Buyer”), or his designated successor or successors in interest, for the purchase price of \$3,200,000, with escrow to close within 30 days of the date of entry of this order.

5. The sale is free and clear of any and all liens and interests, including, but not limited to, the following liens:

- a. The deed of trust in favor of BONY, in the original, principal amount of \$1,470,000, recorded against the Property in the Official Records of the Orange County Recorder’s Office as document number 2005-000170527 pursuant to §§ 363(f)(3) and 363(f)(4); and

¹ Unless otherwise indicated, all statutory references herein pertain to Title 11 of the United States Code and the Federal Rules of Bankruptcy Procedure.

1 b. The deed of trust, in the original, principal amount of \$710,000, recorded
2 against the Property in the Official Records of the Orange County Recorder's
3 Office as document number 2005-00403976 pursuant to § 363(f)(4).

4 6. The sale is free and clear of any and all other claims and interests, including, but not
5 limited to, any claims or interests of Toni Beier and the deed of trust recorded against the Property in
6 the Official Records of the Orange County Recorder's Office as document number 2008-0429738.

7 7. The brokers' commission proposed in the Motion, in the amount of 5% of the
8 overbid, is approved.

9 8. Trustee may pay real estate broker commission, real property taxes owed to Orange
10 County, and costs of sale from the sale proceeds, in the manner proposed in the Motion.

11 9. Trustee may make the interim distribution of \$2.4 million to BONY and deposit the
12 balance of the net sale proceeds in a trust account pending settlement negotiations or the outcome of
13 litigation to be commenced by Debtor against BONY within 30 days of entry of the order granting
14 the Motion.

15 10. Trustee shall have full discretion to make a further disbursement to BONY if Debtor
16 fails to commence litigation within 30 days of entry of this Order.

17 11. Buyer is a "good faith purchaser" under § 363(m).

18 12. If the sale to Buyer does not close within 30 days of entry of this Order, Buyer's
19 \$91,500 deposit shall be forfeited to Trustee.

20 13. Trustee is authorized to return the initial proposed buyer, Sunrise 1 Holdings LLC's
21 \$91,500 deposit to it.

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1 14. Trustee is authorized to sign any and all documents necessary, and to undertake any
2 non-material amendments and modifications necessary, to complete the sale of the Property and
3 distribution of the proceeds of the sale, to the extent authorized by this Order, without further notice,
4 hearing, or Court order.

5 15. The 14-day stay of FRBP 6004(h) is hereby waived.

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24 Date: November 15, 2023



Theodor C. Albert
United States Bankruptcy Judge

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF , COUNTY OF ORANGE, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 1 OF TRACT NO. 15841, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A SUBDIVISION MAP (MAP") RECORDED ON DECEMBER 23, 1999, IN BOOK 794, PAGES 25 TO 2., INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE ORANGE COUNTY RECORDER.

EXCEPTING THEREFROM, ONE-HALF OF ALL RIGHTS TO OIL, GAS, PETROLEUM, HYDROCARBON SUBSTANCES, AND OTHER MINERALS AND GASES BELOW A DEPTH OF FIVE HUNDRED (500) FEET MEASURED VERTICALLY FROM THE PRESENT SURFACE OF THE LOT, WITHOUT THE RIGHT OF SURFACE ENTRY AND WITHOUT THE RIGHT OF ENTRY WITHIN SAID FIVE HUNDRED (500) FEET, AS RESERVED BY ERNEST A. BRYANT, JR. AND JUDITH TILT BRYANT, HUSBAND AND WIFE, IN THE DEED RECORDED SEPTEMBER 24, 1963, IN BOOK 6729, PAGE 443, IN THE OFFICE OF THE ORANGE COUNTY RECORDER, CALIFORNIA ("OFFICIAL RECORDS").

ALSO EXCEPTING THEREFROM IN FAVOR OF COTO DE CAZA LTD., A CALIFORNIA LIMITED PARTNERSHIP ("COTO LTD."), ITS SUCCESSIVE OWNERS AND ASSIGNS, TOGETHER WITH THE RIGHT TO GRANT AND TRANSFER ALL OR A PORTION OF THE SAME, AS FOLLOWS:

A. ALL REMAINING OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LOT, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING, AND OPERATING THEREFOR, AND STORING IN AND REMOVING THE SAME FROM THE LOT OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THE LOT, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LOT, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LOT, AS RESERVED IN THE DEED RECORDED NOVEMBER 30, 1998, AS INSTRUMENT NO. 1998-0813258 OF OFFICIAL RECORDS.

B. ALL WATER, WATER RIGHTS OR INTERESTS THEREIN APPURTENANT OR RELATING TO THE LOT OR OWNED OR USED BY COTO LTD., IN CONNECTION WITH OR WITH RESPECT TO THE LOT (NO MATTER HOW ACQUIRED BY COTO LTD.), WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM OR IN THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY COTO LTD.; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED BY COTO LTD. IN THE DEED RECORDED NOVEMBER 30, 1998 AS INSTRUMENT NO. 1998-0813258 OF OFFICIAL RECORDS.

PARCEL 2:

NON-EXCLUSIVE EASEMENTS FOR USE, ACCESS, INGRESS, EGRESS, MAINTENANCE, REPAIR, DRAINAGE, ENCROACHMENT, SUPPORT, AND FOR OTHER PURPOSES, ALJ. AS DESCRIBED IN THE MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR COTO DE CAZA ("MASTER DECLARATION"), RECORDED ON MARCH 5, 1984 AS INSTRUMENT NO 84-092424, IN THE SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF

EASEMENTS FOR OAK KNOLL IN COTO DE CAZA ("SUPPLEMENTAL DECLARATION") RECORDED ON SEPTEMBER 11, 2000 AS INSTRUMENT NO 2000-471430, IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS OF THE SUMMIT ("SUMMIT DECLARATION") RECORDED ON SEPTEMBER 20, 2000, AS INSTRUMENT NO. 2000-492456, AND IN THE NOTICE OF ADDITION OF TERRITORY AND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SUMMIT ("SUMMIT NOTICE") RECORDED ON DECEMBER 20, 2000, AS INSTRUMENT NO. 2000-691033, ALL AS AMENDED OR RESTATED AND ALL IN OFFICIAL RECORDS, AND AS DESCRIBED IN THE MAP.